

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1009

Introduced by Cornett, 45; Flood, 19; Howard, 9

Read first time January 10, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the DNA Detection of Sexual and Violent
2 Offenders Act; to amend sections 29-4102, 29-4104,
3 29-4106, and 29-4107, Revised Statutes Cumulative
4 Supplement, 2004; to change provisions relating to
5 legislative findings, use of the State DNA Data Base, and
6 the collection of samples; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-4102, Revised Statutes Cumulative
2 Supplement, 2004, is amended to read:

3 29-4102 The Legislature finds that DNA data banks are
4 an important tool in criminal investigations, in the exclusion
5 of individuals who are the subject of criminal investigations or
6 prosecutions, ~~and~~ in deterring and detecting recidivist acts, and
7 in locating and identifying missing persons and human remains.
8 Several states have enacted laws requiring persons convicted
9 of certain crimes, especially sex offenses, to provide genetic
10 samples for DNA typing tests. Moreover, it is the policy of
11 this state to assist federal, state, and local criminal justice
12 and law enforcement agencies in the identification and detection
13 of individuals in criminal investigations and in locating and
14 identifying missing persons and human remains. It is in the best
15 interest of this state to establish a State DNA Data Base for
16 DNA records and a State DNA Sample Bank as a repository for DNA
17 samples from individuals convicted of felony sex offenses and other
18 specified offenses.

19 Sec. 2. Section 29-4104, Revised Statutes Cumulative
20 Supplement, 2004, is amended to read:

21 29-4104 The State DNA Data Base is established. The
22 Nebraska State Patrol shall administer the State DNA Data Base and
23 shall provide DNA records to the Federal Bureau of Investigation
24 for storage and maintenance in the Combined DNA Index System.
25 The patrol shall provide for liaison with the Federal Bureau of

1 Investigation and other law enforcement agencies in regard to the
2 state's participation in the Combined DNA Index System. The State
3 DNA Data Base shall store and maintain DNA records related to:

4 (1) Forensic casework;

5 (2) Convicted offenders required to provide a DNA sample
6 under the DNA Detection of Sexual and Violent Offenders Act; and

7 (3) Anonymous DNA records used for research or quality
8 control; and

9 (4) Missing persons, relatives of missing persons, and
10 unidentified human remains.

11 Sec. 3. Section 29-4106, Revised Statutes Cumulative
12 Supplement, 2004, is amended to read:

13 29-4106 (1) A person who is convicted of a felony sex
14 offense or other specified offense on or after September 13, 1997,
15 shall have a DNA sample ~~drawn~~ collected:

16 (a) Upon intake to a prison, jail, or other detention
17 facility or institution to which such person is sentenced. If the
18 person is already confined at the time of sentencing, the person
19 shall have a DNA sample ~~drawn~~ collected immediately after the
20 sentencing. Such DNA samples shall be ~~drawn~~ collected at the place
21 of incarceration or confinement. Such person shall not be released
22 unless and until a DNA sample has been ~~drawn~~ collected; or

23 (b) As a condition for any sentence which will not
24 involve an intake into a prison, jail, or other detention facility
25 or institution. Such DNA samples shall be ~~drawn~~ collected at a

1 detention facility or institution as specified by the court. Such
2 person shall not be released unless and until a DNA sample has been
3 ~~drawn~~ collected.

4 (2) A person who has been convicted of a felony sex
5 offense or other specified offense before September 13, 1997, and
6 who is still serving a term of confinement for such offense on
7 September 13, 1997, shall not be released prior to the expiration
8 of his or her maximum term of confinement unless and until a DNA
9 sample has been ~~drawn~~ collected.

10 Sec. 4. Section 29-4107, Revised Statutes Cumulative
11 Supplement, 2004, is amended to read:

12 29-4107 (1) Only individuals (a) who are physicians or
13 registered nurses, (b) who are trained to withdraw human blood for
14 scientific or medical purposes and are obtaining blood specimens
15 while working under orders of or protocols and procedures approved
16 by a physician, registered nurse, or other independent health care
17 practitioner licensed to practice by the state if the scope of
18 practice of that practitioner permits the practitioner to obtain
19 blood specimens, or (c) who are both employed by a licensed
20 institution or facility and have been trained to withdraw human
21 blood for scientific or medical purposes shall draw a DNA blood
22 sample under the DNA Detection of Sexual and Violent Offenders
23 Act. Withdrawal of blood shall be performed in a medically approved
24 manner using a collection kit provided or accepted by the Nebraska
25 State Patrol. The collection of buccal samples shall be performed

1 by any person approved or designated by the Nebraska State Patrol
2 and using a collection kit provided or accepted by the Nebraska
3 State Patrol. In addition to the DNA sample, one thumb print or
4 fingerprint shall be taken from the person from whom the DNA sample
5 is being ~~drawn~~ collected for the exclusive purpose of verifying
6 the identity of such person. The DNA sample and the thumb print or
7 fingerprint shall be delivered to the Nebraska State Patrol within
8 five working days after ~~drawing~~ collecting the sample.

9 (2) A person authorized to ~~draw~~ collect DNA samples under
10 this section is not criminally liable for ~~drawing~~ collecting a DNA
11 sample and transmitting DNA records pursuant to the act if he or
12 she performs these activities in good faith and is not civilly
13 liable for such activities if he or she performed such activities
14 in a reasonable manner according to generally accepted medical
15 ~~and other professional practices~~ standards for blood samples or in
16 accordance with the collection kit and procedures approved by the
17 Nebraska State Patrol for tissue samples.

18 Sec. 5. Original sections 29-4102, 29-4104, 29-4106,
19 and 29-4107, Revised Statutes Cumulative Supplement, 2004, are
20 repealed.